

Appl. No. : 10/814,966
Filed : March 30, 2004

REMARKS

The specification has been amended as set forth above, and entry of that amendment is respectfully requested. No other amendments have been made.

Applicants gratefully acknowledge the rejoinder of all of the species in view of the lack of prior art found. The sole remaining issues are discussed below.

Amendments to the Specification

The Examiner noted that Application Serial No. 10/814,966 appears to claim subject matter disclosed in Application Serial No. 09/961,691. The Examiner noted that the instant '966 application did not include a reference to the '691 application in the first sentence of the specification, which is required if Applicants wish to rely on the filing date of the prior application under 35 U.S.C. § 199(e), 120, 121, or 365(c).

Applicants note that reference to the '691 application was previously submitted to the U.S. Patent and Trademark Office, but not in the first sentence of the specification or in an application data sheet. Applicants further note that the information concerning the benefit claim was recognized by the PTO as shown by its inclusion on the attached copy of the filing receipt. Thus, consistent with the direction provided in the Office Action, no petition or surcharge under 37 C.F.R. § 1.78(a) and § 1.17(t) are required. Finally, as required, the specification has been amended, as shown above, to include reference to the '691 application and to specify the relationship of the '966 application to the '691 application.

Double Patenting Rejection

The Examiner rejected Claims 71-122 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 9 and 17 of U.S. Patent No. 6,753,161. The '161 patent is the parent of the instant '966 application. Attached herewith is a Terminal Disclaimer over the '161 patent. Applicants thus respectfully request that the Examiner's nonstatutory obviousness-type double patenting rejection of Claims 71-122 be withdrawn.

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CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the specification are presented above. In light of these amendments and remarks, allowance of the claims is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 22, 2007

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APPL. NO.	FILING OR 371 (2) DATE	ART. UNIT	FIL. FEE REC'D	ATTY. DOCKET NO.	DRAWINGS	TOT. CLMS	IND. CLMS
10/814,966	03/30/2004	1636	1158	66686-029	10	70	4

CONFIRMATION NO. 8868

REPLACEMENT FILING RECEIPT



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Date Mailed: 02/05/2007

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Assignment For Published Patent Application

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Domestic Priority data as claimed by applicant

This application is a CON of 09/961,691 06/21/2001 PAT 6,753,161
 which is a CIP of 09/728,281 11/30/2000 PAT 6,514,722
 which is a CIP of 09/451,659 11/30/1999 PAT 6,534,308
 which is a CIP of 09/049,677 03/27/1998 PAT 6,143,535
 which is a CIP of 08/824,968 03/27/1997 PAT 5,874,286

Foreign Applications

If Required, Foreign Filing License Granted: 06/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/814,966

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Optoinjection methods

Preliminary Class

435

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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